

REMARKS

By this reply, Applicant amends claims 52, 55-58, 62, 64-67, and 69-73; cancels claims 54 and 68; and adds new claims 74-83. Accordingly, claims 52, 53, 55-67, and 69-83 are pending in this application. Claims 56, 64-66, and 70-73 are withdrawn from consideration as being drawn to a non-elected embodiment. Applicant hereby withdraws new claims 78, 82, and 83, as being drawn to a non-elected embodiment. This reply does not introduce any new matter.

The outstanding Office Action sets forth a rejection of claims 52-55, 57, 60-62, and 67-69 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,077,288 to Shimomura et al. ("Shimomura"); and a rejection of claim 63 under 35 U.S.C. § 103(a) as being unpatentable over Shimomura. Applicant acknowledges the Examiner's indication, on page 3 of the Office Action, that claims 58 and 59 contain allowable subject matter.

I. Rejection of claims 52-55, 57, 60-62, and 67-69 under 35 U.S.C. § 102(e)

Applicant respectfully traverses the rejection of claims 52-55, 57, 60-62, and 67-69 as anticipated by Shimomura. Shimomura fails to teach each and every limitation recited in those claims.

Amended independent claim 52 calls for a combination, including, for example,

[a] wound retractor device, comprising . . . a proximal assembly including a first member having a radially inner portion and a radially outer portion, and a second member having a radially inner portion and a radially outer portion; and a wound retracting sleeve . . . slidably received between the radially outer portion of the first member and the radially inner portion of the second member.

Shimomura fails to teach at least these elements. In Shimomura,

FIGS. 3A and 3B show . . . a valved trocar jacket tube 100A comprises a valve 10 and a skirt 110 functioning as a jacket means, and the skirt 110 is attached to the valve 10. The valve 10 is composed of a pair of a male ring 11 and a female ring 12 . . . and a cylindrical rubber-like member 13 . . . the ends of which are attached to the pair of the rings 11 and 12, respectively

FIG. 7 shows . . . the valved trocar jacket tube 110C comprises upper and lower valves 10 . . . a connecting cylinder 120 . . . and a skirt 110 The upper end of connecting cylinder 120 is bonded or fused in vicinity of the convex portion 13b which is fitted into the groove 11b of the male ring 11 contained in the upper valve 10, while the lower end of the connecting cylinder 120 is bonded or fused into the groove 12b of the female ring 12 contained in the lower valve 10 Shimomura, column 4, lines 55-64; and column 7, lines 21-40.

Page 2 of the Office Action appears to allege that rings 11 and 12 of upper valve 10 correspond to a "proximal assembly," and that connecting cylinder 120 corresponds to the claimed "wound retracting sleeve." However, connecting cylinder 120 of Shimomura does not retract a wound. Furthermore, connecting cylinder 120 of Shimomura is bonded or fused near convex portion 13b of cylindrical rubber-like member 13, and is not slidably received between rings 11 and 12. Thus, Shimomura fails to teach "a first member having a radially inner portion and a radially outer portion, and a second member having a radially inner portion and a radially outer portion; and a wound retracting sleeve . . . slidably received between the radially outer portion of the first member and the radially inner portion of the second member," as recited in amended independent claim 52. For at least these reasons, Applicant respectfully requests reconsideration of the rejection, and the timely allowance of amended independent claim 52.

Amended claim 67 calls for a combination, including, for example,

[a] method for retracting an incision, comprising . . . providing a wound retractor comprising . . . a proximal assembly having first member and a second member, and a sleeve extending . . . longitudinally between the first member and the second member . . . and pulling a portion of the sleeve through the proximal assembly to shorten an axial length of the sleeve located between the distal ring and the proximal assembly.

Here too, the allegations from page 2 of the Office Action prove deficient. A top end of connecting cylinder 120 of Shimomura is bonded or fused near convex portion 13b at ring 11, and thus, connecting cylinder 120 cannot extend longitudinally between rings 11 and 12. Furthermore, Shimomura does not teach pulling a portion of connecting cylinder 120 through rings 11 and 12 to shorten its axial length. Thus, Shimomura fails to teach "a sleeve extending . . . longitudinally between the first member and the second member . . . and pulling a portion of the sleeve through the proximal assembly to shorten an axial length of the sleeve located between the distal ring and the proximal assembly," as recited in amended independent claim 69. For at least these reasons, Applicant respectfully requests reconsideration of the rejection, and the timely allowance of amended independent claim 69.

Claims 53, 55, 57, 60-62, 68, and 69 depend from one of amended independent claims 52 and 67, and are therefore allowable for at least the same reasons that amended independent claims 52 and 67 are allowable. In addition, the dependent claims recite unique combinations that are neither taught nor suggested by the cited art, and therefore are also separately patentable.

II. Rejection of claim 63 under 35 U.S.C. § 103(a)

As discussed above, Shimomura fails to disclose or suggest each of the limitations in amended independent claim 52, from which claim 63 depends. Furthermore, the modification to Shimomura on page 3 of the Office Action fails to

remedy the above-mentioned deficiencies of Shimomura, nor is the suggested modification used for such a purpose. Therefore, claim 63 is allowable for at least the same reasons that amended independent claim 52 is allowable.

III. New claims 74-83

Claims 74-78 depend from amended independent claim 52, and are therefore allowable for at least the same reasons that amended independent claim 52 is allowable. In addition, the dependent claims recite unique combinations that are neither taught nor suggested by the cited art, and therefore are also separately patentable.

Independent claim 79, while of different scope than amended independent claim 52, recites similar features. For example, independent claim 79 recites, *inter alia*,

[a] wound retractor device, comprising . . . a proximal assembly including a first member having a radially outer portion, and a second member having a radially inner portion, the radially outer portion of the first member being located at least partially within a recess in the radially inner portion; and a generally cylindrical wound retracting sleeve extending at least between the distal ring and the proximal assembly, through the proximal assembly between the radially outer portion of the first member and the radially inner portion of the second member, and proximally beyond the proximal assembly, a portion of the sleeve extending proximally beyond the proximal assembly forming a gripping portion for pulling the sleeve to shorten an axial length of the sleeve located between the distal ring and the proximal assembly.

Thus, independent claim 79 allowable for at least the same reasons that amended independent claim 52 is allowable. Since claims 80-83 depend from independent claim 79, claims 80-83 are therefore allowable for at least the same reasons that independent claim 79 is allowable. In addition, the dependent claims recite unique combinations that are neither taught nor suggested by the cited art, and therefore are also separately patentable.

In view of the foregoing amendments and remarks, Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account 06-0916.

Respectfully submitted,

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